

MONTANA LEGISLATIVE HISTORY

BEST COPY
AVAILABLEChapter 391 19 89Bill H 171 S _____ Original bill & history ____CH. Committee on State AdministrationHearing Date(s) Jan 31 ✓CFeb 07 ✓C

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_____C

Date Out _____C

S. Committee on State AdministrationHearing Date(s) Mar 09 ✓C

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Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

HOUSE FINAL STATUS

HB 170 INTRODUCED BY HAYNE, ET AL.
MAKE DISCRETIONARY DEPARTMENT OF AGRICULTURE DUTIES
ON CROP INSECT DETECTION AND MANAGEMENT
BY REQUEST OF DEPARTMENT OF AGRICULTURE

1/13	INTRODUCED	
1/14	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.	
1/20	HEARING	
1/21	COMMITTEE REPORT--BILL PASSED	
1/24	2ND READING PASSED	63 36
1/26	3RD READING PASSED	68 29

	TRANSMITTED TO SENATE	
1/27	REFERRED TO AGRICULTURE, LIVESTOCK & IRRIG.	
2/10	HEARING	
2/13	COMMITTEE REPORT--BILL CONCURRED AND PLACED ON CONSENT CALENDAR	
2/15	3RD READING CONCURRED	50 0

	RETURNED TO HOUSE	
3/02	SIGNED BY SPEAKER	
3/03	SIGNED BY PRESIDENT	
3/03	TRANSMITTED TO GOVERNOR	
3/07	SIGNED BY GOVERNOR	
	CHAPTER NUMBER 53 EFFECTIVE DATE: 3/07/89	

HB 171 INTRODUCED BY SWIFT, ET AL.
REQUIRE WRITE-IN CANDIDATES TO FILE DECLARATION OF
INTENT

1/13	INTRODUCED	
1/14	REFERRED TO STATE ADMINISTRATION	
1/31	HEARING	
2/07	COMMITTEE REPORT--BILL PASSED AS AMENDED	
2/10	2ND READING PASSED AS AMENDED	84 9
2/13	3RD READING PASSED	82 13

	TRANSMITTED TO SENATE	
2/14	REFERRED TO STATE ADMINISTRATION	
3/09	HEARING	
3/09	COMMITTEE REPORT--BILL CONCURRED AS AMENDED	
3/10	2ND READING CONCURRED	26 13
3/13	3RD READING CONCURRED	41 8

	RETURNED TO HOUSE WITH AMENDMENTS	
3/15	2ND READING AMENDMENTS CONCURRED	77 0
3/16	3RD READING AMENDMENTS CONCURRED	92 5

3/23	SIGNED BY SPEAKER	
3/27	SIGNED BY PRESIDENT	
3/28	TRANSMITTED TO GOVERNOR	
3/30	SIGNED BY GOVERNOR	
	CHAPTER NUMBER 391 EFFECTIVE DATE: 3/30/89	

HB 172 INTRODUCED BY SWIFT, ET AL.
MAKE IT A CRIME TO PUT SUBSTANCE INTO TREE OR WOOD
TO HARM LOGGING OR OTHER EQUIPMENT

1/13	INTRODUCED	
1/14	REFERRED TO JUDICIARY	

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on January 31, 1989,
at 9:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies,
Staff Researcher

Announcements/Discussion: Chairman Brown announced the following: The Committee would be meeting between 1:30 and 3:00 p.m. that afternoon for executive action. The Committee would act on the bills it had heard that morning and Rep. Gould's HB 207, on the lottery. We are waiting on a fiscal note on Rep. Swysgood's HB 210 so we probably cannot act on that. We will act on Rep. Gervais's HB 114, Rep. Peck's HB 26, that has been in a subcommittee and Rep. Kilpatrick's HB 267, that is on the table. We are waiting for fiscal notes on Rep. Daily's HB 101 and Rep. Spaeth's HB 234 and they may be here by this afternoon.

HEARING ON HB 171

Presentation and Opening Statement by Sponsor: Rep. Bernie Swift, House District 64, Ravalli County, introduced the bill. The bill requires a person seeking to become a write-in candidate for an office (except the office of precinct committeeman) to file a declaration of intent. The declaration must be filed with the Secretary of State or election administrator no later than 5 p.m. on the 15th day before the election. After the polls have closed, an election judge may not count or record a write-in vote for a candidate who has not filed a declaration.

Rep. Swift said that basically the bill is no different from what every other candidate has to do. They must file by a certain date and have a certain time frame in which to do that. This allows a notice to be posted and allows the electors to know who is running.

Rep. Swift said the counting and recording of the write-in votes is a costly problem that is almost uncontrollable. He said that generally only 1 in 1,000 of the write-in candidates are ever elected.

Rep. Swift said that there was a "typo" in the bill. He said he would take care of the error by adding a new section, following Section 2. The Section refers to the counting of votes in a nonpartisan election. Rep. Swift distributed copies of write-in voting tallies from two counties for the Committee to look at and then return.

List of Testifying Proponents and What Group They Represent:

Cort Harrington, Montana Association of Clerk and Recorders

Betty T. Lund, Clerk & Recorder, Montana Association of Clerks and Recorders

Sue Bartlett, Clerk & Recorder of Lewis and Clark County

Peggy Hagland, Montana Association of Conservation Districts

Chuck Stearns, Finance Director and City Clerk, City of Missoula

List of Testifying Opponents and What Group They Represent:

Don Judge, Montana State AFL-CIO

Margaret S. Davis, Montana League of Voters

Testimony:

CORT HARRINGTON, proponent, said that his group supports the bill and that he wouldn't take up the Committee's time as he would let the clerks explain why they want the bill passed.

BETTY T. LUND, proponent, presented written testimony to the Committee (Exhibit 1) and a proposed Declaration of Intent form (Exhibit 2).

SUE BARTLETT, proponent, said she wanted to make the Committee aware that the problem is not only the number of write-ins they receive in even-year elections, but also there is a problem in city elections. (Ms. Bartlett handed the Committee a copy of the write-in portion of the 1987 city election for the Committee to peruse.) Ms. Bartlett said that for the office of mayor in 1987 there were 75 different write-in votes. The Helena Citizens' Council in Helena has 28 positions, and there was an average of 111 different names in each of 15 precincts in Helena's first elections. Ms. Bartlett informed the Committee that counties do bill costs of city elections back to the cities. She said that it took six people a day and a half to canvas the results of the election. Ms. Bartlett said they are not attempting to eliminate the voters' opportunity to write in, but they wish to limit the write-ins that must be counted to those individuals who are running serious write-in campaigns and who have registered their campaign prior to the election.

PEGGY HAGLAND, proponent, presented written testimony to the Committee (Exhibit 3).

CHUCK STEARNS, proponent, presented the Committee with a letter from Jim Nugent, Missoula City Attorney, also a proponent (Exhibit 4). He said the city of Missoula feels that this is a public right to know bill. He cited the following example of what happened when a candidate decided to run at the last minute: The weekend prior to the election, a candidacy was mounted and financed by an opponent party of a city councilman. The councilman had to react on a Sunday afternoon and knock on doors. Since it was a primary election a matter of ten votes could have made a difference as turnout in that election was 3.9 percent.

DON JUDGE, opponent, said that the AFL-CIO is opposed to any laws that would further restrict the access of the voting public to that process. He asked the Committee to imagine the situation wherein a candidate was the only one running for the office and the candidate was determined to be unacceptable to the voting public. For example if an individual was found to have embezzled several thousand dollars from the city and was running for re-election. Mr. Judge said this bill would effectively prohibit a voter from writing in a candidate to replace that unacceptable candidate.

MARGARET S. DAVIS, opponent, presented written testimony to the Committee (Exhibit 5).

Questions From Committee Members:

REP. RUSSELL asked Betty Lund what states have already passed a law similar to HB 171. Ms. Lund said she knew that Washington, Oregon, New Mexico, Arizona, Illinois, Florida and North Carolina have passed laws for sure. Ms. Lund offered to get information to Rep. Russell on which other states have passed this type of legislation.

REP. CAMPBELL asked Ms. Lund if there are any figures available of what the cost of counting write-in candidates is to the counties. Ms. Lund said that in the general election of 1988 Ravalli County had a cost of \$160. Missoula County has a cost of \$1,200. Yellowstone county had a cost of approximately \$500.

REP. CAMPBELL asked Ms. Lund if she knew of any instances of where someone had been found to be doing something wrong in the last fifteen days before an election like Mr. Judge pointed out. Ms. Lund said "no."

REP. WHALEN voiced concern over the sample Declaration of Intent form. He was concerned about what form a person's name must be in. He was told that the form, if the bill passed, would probably be made in the Secretary of States' office and that this was only a sample.

Closing by Sponsor: Rep. Swift said he wished to make a comment in relation to the opponents. Rep. Swift said that the bill does not restrict or disenfranchise anyone. The bill is the same as the Legislators must do when they file for office. There are problems at times when a person may pass away between the 15-day filing date and the election, but he said he thinks that those things can be provided for.

DISPOSITION OF HB 171

No action was taken by the committee.

HEARING ON HB 345

Presentation and Opening Statement by Sponsor:

Rep. Fred Thomas, House District 62, introduced the bill. This is an agency bill requested by the Secretary of State. It permits facsimile copies of

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date January 31, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires			
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton	✓		
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

EXHIBIT 1
DATE 1-31-89
171
1062

PLEASE DELIVER TO:
SECRETARY
House State Administration Committee
State Capitol
Helena, MT
Witness Statement
January 31, 1989
9:00 A.M.
HB 171

WITNESS STATEMENT

NAME: Betty T Lund, Clerk & Recorder

ADDRESS: Ravalli County Courthouse, Box 5002
Hamilton, MT 59840

WHOM DO YOU REPRESENT? Montana Association of Clerks and
Recorders

SUPPORT: HB 171

COMMENTS:

Madam Chairman and Members of the Committee:

For the the record I am Betty Lund, Clerk & Recorder for
Ravalli County.

H.R. 171 is a result of a resolution passed unanimously by
the Montana Association of Clerk & Recorders at their
convention this past August. The concept of requiring a
serious write-in candidate to file a declaration of intent
is not a concept unique to Montana. I have received copies
of similar laws from the State of Oregon, New Mexico,
Arizona, Illinois, North Carolina and Florida and know other
states I did not receive data from have it.

In this time of 1105's and severe budget constraints HB 171
will help to lower election costs, as it is very costly to
count the endless write-ins that elect no one.

I don't believe the general public realizes how many writer-
ins there are in a single election and how much it costs to
process them.

In this past general election, Ravalli County had 377
different names written in for various offices. We had to
certify 184 different names with a total vote of 304 to the
Secretary of State as you can see by the copy of the
official canvass- if you will notice most candidates only
received one vote. The primary was worse - 261 different
names with 466 votes were certified to the Secretary of

EXHIBIT 1DATE 1-31-89HB 171

2 of 2

local government canvass book. The cost of the write-in board on election day for the General was \$120.60. The cost of the crew after the election to type the write-in votes in the Ravalli County official canvass book and certify all the write-ins to the Secretary of State was \$363.63.

Peggy Zeilie, the Election Administrator from Yellowstone County, called me before I left Hamilton and reported that in the General election she had 710 different write-in names of which 663 had two votes or less and in a soil conservation office, she had 6960 which took an employee 62 hours to process and the two people that were elected were already on the board but failed to file in time to get their names printed on the ballot. Her cost to process only the soil conservation write-ins was \$207.70. The total cost of the write-in vote was in excess of \$2000.00

Missoula County election spokesman, Wendy Cromwell reported that the total cost of her write-ins was \$720, however this cost is double in a primary election.. Lake County Election Administrator Charlotte Weldon reported that she had 228 write-ins, which took 20 minutes each write-in to complete the process at a cost of \$254.60.

In conclusion I would be happy to answer any questions that you might have. I have been running elections in Ravalli County for 17 years so do have some experience.

I strongly urge a DO PASS recommendation for HB 171.

Thank you for your attention.

Betty T. Lunsd

EXHIBIT 2

DATE 1-31-89

HB 171

DECLARATION OF INTENT

To the Honorable County Clerk and Recorder and Ex-Officio
County Registrar of the County of Ravalli, State of Montana,
and to the Members of the _____ party and the
Electors of Ravalli County, State of Montana:

I, the undersigned citizens of the United States of
American and resident of the County of Ravalli, State of
Montana, possessing the qualifications prescribed by
the Constitution and laws of the State of Montana for the
office herein named, declare pursuant to Section
MCA, that I am a write-in candidate for nomination by the
_____ Party for the office of _____
in the County of Ravalli, State of Montana at the
_____ election to be held in said county on
_____, 19____ and for such purpose do certify
that:

1. My name as it will be counted is

2. My complete mailing address is

(street and number of post office box number)

_____, Montana _____
(city or town) (zip code)

Dated: _____ 19____

(signature of candidate)

STATE OF MONTANA)
County of Ravalli) ss

On this _____ day of _____, 19____, before
me, Ravalli County Election Administrator, personally
appeared _____ known to me to be the person
whose name is subscribed to the foregoing Declaration of
Intent, and acknowledged to me that ___he executed the same.

Election Administrator
Ravalli County

WITNESS STATEMENT

NAME Peggy Haglund BUDGET _____

ADDRESS 1 South Montana Helena, 59601

WHOM DO YOU REPRESENT? MT Assoc. of Cons. Districts (MACD)

SUPPORT ✓ OPPOSE _____ AMEND _____

COMMENTS: (MACD & Cons. Dist. of MT)
We do support HB 171.

Several CD's around Montana
have had to have their supervisors
elector by write in votes. For example
Betty referenced CD failed to get their supervisors names
filed in time, this year, so they ran
for election as write in candidates.

At election time, 116 pages of
names were written in. This caused
days & days of work counting the write in
names.

There would have been no problem
for the people who were running for
re-election, as write in candidates, to
have made a declaration of intent 15
days before the election.

MACD urges you to support HB 171

There is the necessity of notifying the electors
about who the write in candidates are. My thought
is the information will have to be available at the
polling places & given to the people when they receive
their ballots.



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

EXHIBIT 4

DATE 1-31-89
171

January 24, 1989

89-50

State Representative
Jan Brown
Chairman
House State Administration
State Capitol
Helena, Montana 59620

State Representative
Helena O'Connell
Vice Chairman
House State Administration
State Capitol
Helena, Montana 59620

House Administration Committee Members
State Capitol
Helena, Montana 59620

RE: SUPPORT FOR HB-171 REQUIRING WRITE-IN CANDIDATE TO FILE
A DECLARATION OF INTENT

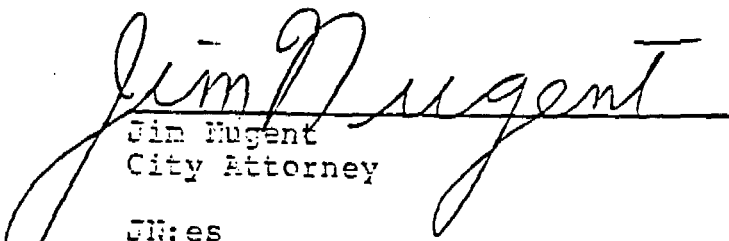
Dear Representatives Brown, O'Connell and House State Administration
Members:

The purpose of this letter is to urge your support for HB-171,
as well as express the City of Missoula's support for House
Bill-171 requiring a write-in candidate to file a declaration
of intent at least 15 days before an election. Further, the
Montana League of Cities and Towns membership has voted to support
the introduction and enactment of legislation to this effect.

A candidacy for public office should never be a clandestine,
behind the scenes campaign effort. Consistent with the public's
Montana constitutional and statutory rights to participate and
to know with respect to public government operations, all election
candidacy's should be open and known to the public well in advance
of any election date.

House Bill 171 further enchances the public's right to participate
and know with respect to public government operations by affording
the public an opportunity, at least 15 days prior to an election
to know who the candidates are so that the electorate may knowingly
participate in the election by knowing who all the candidates
for election are.

Yours truly,


Jim Nugent
City Attorney
JR:es

cc: State Rep. Bernie Swift; Missoula County Reps; Alec Hansen,
Executive Director, Montana League; City legislation file

EXHIBIT 5
DATE 1-31-89
HB 171

LEAGUE OF WOMEN VOTERS OF MONTANA

31 JAN 89

Joy Bruck, president
1601 Illinois, Helena, Montana 59601

HB 171: An act requiring a write-in candidate to file a declaration of intent...

The League of Women Voters opposes HB 171

In addressing the problems of nuisance write-in votes, HB 171 could potentially raise more difficulties than it solves. By formalizing the process for write-in candidates, public awareness of the potential for write-in voting is raised. A legitimate ground-swell of support is quite different from using declarations of intent to regulate the counting of ballots with write-in votes on them.

There are a number of lesser offices that are often filled by write-in votes, particularly if no candidate has filed for the position. The Helena Citizens Council is a good example. Neighbors have gathered before an election and realized that no one had filed for their district's council position. They then sought the permission of the potential office holder and worked to gather write-in support for that person. This often takes place within a week of the election.

With declarations of intent under this bill, election judges would have to remember who was and who was not qualified to be counted in tallying the returns. Any failures to complete the count correctly would require a recount which would be both time consuming and expensive. The present system of counting all write in votes cast that meet the requirements of 13-13-117 (4) seems both simpler and more efficient. Moreover, it sustains public confidence ⁱⁿ an election system where everyone's vote counts.

Margaret S. Davis
816 Flowerree
Helena, Montana 59601
443-3487

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on January 31, 1989,
at 1:30 p.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies,
Staff Researcher

Announcements/Discussion: Chairman Brown said we would take
executive action on the bills the Committee had heard
that morning in the order that they were heard.

DISPOSITION OF HB 171

Hearing Date: January 31, 1989

Motion: Rep. Campbell moved DO PASS.

Discussion: Chairman Brown said that Rep. Swift had worked
with Lois Menzies on an amendment. Ms. Menzies
explained what the amendment (Exhibit 1) does. She
said that it refers to nonpartisan elections, and it
provides that the nonpartisan ballots will be counted
for each person except as provided in Section
13-14-202, and this is currently Section 3 in HB 171.
That provides that the election judges shall count the
votes cast for each individual, except as provided in
that new subsection 1 (b), which says that the judges
may not count or record write-in votes for candidates
who have not filed a declaration of intent.

Amendments, Discussion and Votes: Rep. Campbell moved the
amendment.

REP. WESTLAKE asked if the bill addressed the situation
of a candidate passing away within 15 days prior to the
election, and if the bill precludes a substitute

candidate from being placed on the ballot. REP. PHILLIPS said the Central Committee of the Party can make a recommendation to the county commissioners.

The motion on the amendment CARRIED (15 - 2), with Reps. Gervais and DeBruycker voting no. Rep. Compton was not present for the vote. Rep. Campbell moved HB 171 DO PASS AS AMENDED. REP. O'CONNELL asked why the League of Women Voters and the AFL-CIO opposed the bill. REP. RUSSELL responded by saying that the proponents wanted the bill because it would save time and money. Rep. Russell said that they work hard to get people involved in running for office and when we start setting up rules like this we will discourage a lot of people from participating. She said that if we can get people to participate, it is good even if it will cost extra time and hours.

REP. O'CONNELL said then in a sense the bill would take away from the democratic process. REP. PHILLIPS said he took a different view. He said he didn't know of a write-in candidate winning an election; when you talk about recruiting and finding a candidate, you have people who have committed 45 days prior to an election or longer. REP. PHILLIPS said that you are not discouraging viable candidates; you're just eliminating some work. He does not think it eliminates a candidate's opportunity to run. REP. MOORE said that if anyone is interested in running for office, nonpartisan or otherwise, they should be very happy to sign their intentions for everyone to know. REP. GERVAIS said in a real close election that write-in candidates can actually turn the election around because they take votes away from certain candidates. He said that it is an old trick to get someone in the same party to get a bunch of write-in votes for themselves, just enough to throw the election. REP. ROTH said he did not think the intention of the bill is to keep anyone from participating.

REP. NELSON said that the bill would lead to efficiency in the counties. He looked at the write-in lists that were passed around and checked the names of those that were written in on some of the state races; He read the names of many people that don't even live in Montana.

REP. WHALEN said he likes the bill, but he is concerned about the issues that were raised by the AFL-CIO and the League of Women Voters. Something could happen in the 15 days prior to the election. They voiced a concern that a new candidate then could not file.

REP. WHALEN made a substitute motion to amend the bill, so that the votes would be counted for someone who would have a substantial number of votes, such as 3 to 4 percent.

REP. ROTH said he opposed the substitute motion. He said that anyone who comes in 15 days prior to the election will not be a serious candidate. He said he can understand Rep. Whalen's concern about 3 to 4 percent of the vote, but he said it would not happen. REP. PHILLIPS said the election officials would not know if they had 3 or 4 percent of the vote if they didn't tally them. He said you would be right back to bean counting again, and we wouldn't accomplish anything.

A roll call vote was taken on the substitute motion. The motion CARRIED 9 - 8 (Exhibit 2). Rep. Compton was not present at the time the vote was taken.

Recommendation and Vote: Action was deferred on the bill until the completion of the proposed amendment by Rep. Whalen and Ms. Menzies.

DISPOSITION OF HB 373

Hearing Date: January 31, 1989

Motion: Rep. Nelson moved DO PASS.

Amendments, Discussions and Votes: Rep. Nelson moved the amendment to change six round trips to five round trips.

REP. WHALEN made a substitute motion to amend HB 373 by striking on line 22, page 1, after the word "to" inserting "the amount per day established by the Federal IRS Code" or words to that effect. REP. WHALEN said there are two reasons he made the motion. (1) He said \$50 a day is inadequate as we are all maintaining two homes, and we are being paid a small amount for the services we perform for the people in the state. Rep. Whalen said the Legislators should have the same amount of money that is paid to workers for the federal government. (2) He wants the figure linked to the IRS Code so when that figure increases, the Legislature will not have to constantly amend the law.

REP. WESTLAKE asked if it is legal to change the \$50 to \$66 a day since the Legislators are not allowed to raise their own salary during the session.

Amendments to House Bill No. 171
First Reading Copy

Requested by Representative Bernie Swift
For the House Committee on State Administration

Prepared by Lois Menzies
January 31, 1989

1. Title, line 8.

Following: "13-13-117"

Insert: ", 13-14-116,"

2. Page 4.

Following: line 1

Insert: "Section 3. Section 13-14-116, MCA, is amended to read:

"13-14-116. Counting and canvassing of nonpartisan ballots. (1) After closing the polls, the election officers shall separately count, canvass, record, and certify nonpartisan ballots, showing the number of votes cast for each person, except as provided in 13-15-202.

(2) Nonpartisan ballots, stubs, and unused ballots ~~shall~~ must be disposed of in the same manner as other ballots, stubs, and unused ballots. Returns ~~shall~~ must be made as provided by law.""

Renumber: subsequent sections

EXHIBIT 2
DATE 1-31-89
HB 171

ROLL CALL VOTE
STATE ADMINISTRATION COMMITTEE

DATE _____ BILL NO. ^{H3} 171 NUMBER 1

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell		✓
Vicki Cocchiarella	✓	
Duane Compton		
Ervin Davis	✓	
Roger DeBruycker		✓
Floyd "Bob" Gervais	✓	
Harriet Hayne		✓
Janet Moore		✓
Richard Nelson		✓
Helen O'Connell	✓	
John Phillips		✓
Rande Roth		✓
Angela Russell	✓	
Wilbur Spring, Jr.		✓
Carolyn Squires	✓	
Vernon Westlake	✓	
Timothy Whalen	✓	

TALLY

9 8

Secretary

Chairman

MOTION: Substitute amendment - DO Pass 9-8
of Rep Whalen.

DISPOSITION OF HB 357

Motion: Rep. Cocchiarella moved HB 357 DO NOT PASS.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: The motion CARRIED. The vote 16 - 2
(see roll call vote).

DISPOSITION OF HB 428

Hearing Date: February 2, 1989

Motion: Rep. Cocchiarella moved DO NOT PASS.

Amendments, Discussion, and Votes: None

Recommendation and Vote: A roll call vote was taken. The motion
FAILED 16 - 2.

DISPOSITION OF HB 171

Hearing Date: January 31, 1989

Motion: Rep. Whalen moved HB 171 DO PASS.

Amendments, Discussion, and Votes: Rep. Whalen presented amendments to the committee (Exhibit 13). Rep. Whalen moved the amendments. REP. WHALEN said that the amendments addressed the concern that was raised by the opponents that if in the last 15 days prior to an election, something would happen to change the entire course of the election, there would be an opportunity within the last 15 days to write in someone else's name and have them counted. The amendment requires that in the last 15 days of the election someone either dies, withdraws from the election or is charged with a felony offense, then a write-in candidate could come in. This candidate would still have to fill out the declaration of intent, and he or she would have to do it within 48 hours of the election to have his or her votes counted by the clerks and recorders.

The motion CARRIED unanimously.

Recommendation and Vote: Rep. Whalen moved HB 171 AS AMENDED DO PASS. The motion CARRIED unanimously.

DISPOSITION OF 407

Hearing Date: February 2, 1989

STANDING COMMITTEE REPORT

February 7, 1989

Page 1 of 2

Mr. Speaker: We, the committee on State Administration report that HOUSE BILL 171 (first reading copy -- white) do pass as amended.

Signed: Jan Brown
Jan Brown, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "13-13-117"

Insert: ", 13-14-116,"

2. Page 1, lines 13 and 14.

Strike: "Except" on line 13 through "(3), a" on line 14

Insert: "A"

3. Page 1, line 15.

Following: "election"

Insert: ", except a person seeking election as a precinct committeeman in a primary election,"

4. Page 1, line 20.

Strike: "The"

Insert: "Except as provided in subsection (2), the"

5. Page 2.

Following: line 5

Insert: "(2) A declaration of intent may be filed after the deadline provided for in subsection (1) but no later than 5 p.m. on the day before the election if, less than 15 days before the election, a candidate for the office that the write-in candidate is seeking:

(a) dies;

(b) withdraws from the election; or

(c) is charged with a felony offense."

Renumber: subsequent subsections

6. Page 2, lines 12 through 14.

Strike: subsection (4) in its entirety

7. Page 4.

Following: line 1

Insert: "Section 3. Section 13-14-116, MCA, is amended to read:

"13-14-116. Counting and canvassing of nonpartisan ballots. (1) After closing the polls, the election officers shall separately count, canvass, record, and certify nonpartisan ballots, showing the number of votes cast for each person, except as provided in 13-15-202.

(2) Nonpartisan ballots, stubs, and unused ballots ~~shall~~ must be disposed of in the same manner as other ballots, stubs, and unused ballots. Returns ~~shall~~ must be made as provided by law."

Renumber: subsequent sections

Amendments to House Bill No. 171
First Reading Copy

For the House Committee on State Administration

Prepared by Lois Menzies
February 5, 1989

1. Title, line 8.

Following: "13-13-117"

Insert: ", 13-14-116,"

2. Page 1, lines 13 and 14.

Strike: "Except" on line 13 through "(3), a" on line 14

Insert: "A"

3. Page 1, line 15.

Following: "election"

Insert: ", except a person seeking election as a precinct
committeeman in a primary election,"

4. Page 1, line 20.

Strike: "The"

Insert: "Except as provided in subsection (2), the"

5. Page 2.

Following: line 5

Insert: "(2) A declaration of intent may be filed after the
deadline provided for in subsection (1) but no later than 5
p.m. on the day before the election if less than 15 days
before the election a candidate for the office that the
write-in candidate is seeking:

(a) dies;

(b) withdraws from the election; or

(c) is charged with a felony offense."

Renumber: subsequent subsections

6. Page 2, lines 12 through 14.

Strike: subsection (4) in its entirety

7. Page 4.

Following: line 1

Insert: "Section 3. Section 13-14-116, MCA, is amended to read:

"13-14-116. Counting and canvassing of nonpartisan
ballots. (1) After closing the polls, the election officers
shall separately count, canvass, record, and certify
nonpartisan ballots, showing the number of votes cast for
each person, except as provided in 13-15-202.

(2) Nonpartisan ballots, stubs, and unused ballots
~~shall must~~ be disposed of in the same manner as other
ballots, stubs, and unused ballots. Returns ~~shall must~~ be
made as provided by law."

Renumber: subsequent sections

SENATE COMMITTEE ON STATE ADMINISTRATION

March 9, 1989

Page 2 of 49

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson asked if there was a problem with the veto message; for instance, the one they had last time.
- A. Representative Marks responded that SB103 was the one that stimulated interest in this, noting that bill did pass by a super majority, enough to override a veto. He stated there was an attempt to poll the legislators, irrespective of how the vote came out, and the process was found to be faulty. He reported that the Secretary of State complained about it, indicating there must be a better way to get this done, that he contacted the Legislative Council, and brought it up to the Legislative Council Committee. Representative Marks indicated the committee recognized that there was a concern, and asked that this bill be drafted to put some deadlines on it.

Chairman Farrell announced the hearing on HB2 as closed.

DISPOSITION OF HB 2

Discussion:

Senator Rapp-Svrcek offered a motion that HB2 be concurred in

Recommendation and Vote:

Motion passed by the committee that HB2 be concurred in.

HEARING ON HB 171

Presentation and Opening Statement by Sponsor:

Representative Bernie Swift stated that, basically, HB171 is a very straightforward piece of legislation, and that the objective is that people, who are interested in being write-in candidates, declare their intention 15 days before the specific election they have interest in, by 5:00 of that day.

SENATE COMMITTEE ON STATE ADMINISTRATION

March 9, 1989

Page 3 of 49

He indicated that is the basic thrust of this piece of legislation, and is all it amounts to.

Representative Swift reported there were a couple of amendments made on the floor of the House, which added a couple of more exceptions, other than the one they originally had in the bill for committee men and committee women. He indicated that caused a little confusion, which is why the committee will see the changes in this bill. He noted he has an amendment, which he will discuss later.

Representative Swift noted there are many elections, such as irrigation districts, conservation districts, school board trustee elections, etc., and that there are many times, on the day of the election, whether it be a primary or general election, that there are anywhere from 200 to 10,000 write-in votes. He stated that, under the present law, the judges and election administrators have to count every one of those votes, that they have to audit them, and have to work them across, be sure they have not missed any, and summarize every one of them by the write-in positions. He demonstrated a very large, thick document, and reported it came from Yellowstone County's last election. He indicated he thinks there are some 7,000, near 8,000 write-in votes, and noted that none of the write-in votes were successful, adding that this is generally the case in most elections. He noted the same thing has occurred in other counties in Montana.

Representative Swift reported that some people in the House were really concerned about school board elections, that they questioned why we would not allow that to continue, and this is the reason for two of the amendments which were put on the bill on the House floor. He indicated that, on page 2 of the bill, they have provided that, if a candidate who has declared his intent to be a candidate passes away, or something else comes up, on the day of the election, another candidate can write-in for that particular election. He indicated the second amendment was to clear up absentee ballots for people in the armed services. Representative Swift stated they made one other amendment which caused an inconsistency and so, to clear that up, he has proposed an amendment, which clears up the language. He distributed copies of the proposed amendment to the committee, a copy of which is attached as Exhibit 2. He stated that will make everything consistent, and still have those three amendments in there to provide for those particular situations to have a write-in candidate.

List of Testifying Proponents and What Group they Represent:

Betty T. Lund, Montana Association of Clerks and Recorders

Testimony:

Ms. Lund's written testimony is attached as Exhibit 4.

List of Testifying Opponents and What Group They Represent:

None.

Questions From Committee Members:

- Q. Senator Bengtson indicated that she is confused regarding page 3, which states that "the requirements in subsection (1) do not apply to a write-in candidate seeking election as a precinct committee man or committee woman, or where no candidate has filed for office", and asked what does that mean. She asked if, in other words, they can write in someone's name as a precinct committee man and woman, without having a declaration of intent filed.
- A. Representative Swift responded yes, that this was the first exception. Upon Senator Bengtson's question of why, he indicated that the discussion with the Clerk and Recorders, and others, was that they usually have to grab somebody and twist their arm in order for them to agree to be committee man or committee woman, generally. He indicated that, with that reluctance on the part of those people for those positions, it was decided to, originally in the bill, make that one exception. He stated that he does not think there are many counties in the state that have all the precincts full and up to the complement, and that this is the only reason.
- Q. Senator Bengtson then asked, if no person has filed for office, they do count them, noting she is sure they would like to get rid of that, too.
- A. Representative Swift responded they do, with this bill, noting the amendment will clarify that. He indicated the amendment was developed, and cleared through the Legislative Council.

Closing by Sponsor:

Representative Swift indicated they think it will be an efficiency measure, that they hope to eventually get it where

SENATE COMMITTEE ON STATE ADMINISTRATION

March 9, 1989

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they do not have to have exceptions. He stated that, if they can get people to get involved and participate, like all the rest of us have to do, who are interested in office, he thinks it will be better to get the people there, so the public knows who they are, and they will have a better system in the long run.

Chairman Farrell announced the hearing on HB171 as closed.

DISPOSITION OF HB 171

Discussion:

Senator Bengtson offered a motion that the amendments to HB171 be adopted.

Senator Hofman offered a motion that HB171 be concurred in as amended.

Amendments and Votes:

Motion passed by the committee that the amendments to HB171 be adopted.

Recommendation and Vote:

Motion passed by the committee that HB171 be concurred in as amended.

HEARING ON HB 11

Presentation and Opening Statement by Sponsor:

Representative Dorothy Bradley stated she is here with a legal colleague of her's from Gallatin County, Stuart Whitehair, who the committee will hear from in more detail, noting that they have been working together for some years now, and she hopes this is the magic year. She stated this is one of the most interesting political science measures that has come before the Legislature, and that it is an interesting question, which has been a real challenge to work on. She indicated she does not think a lot of people realize they have the luxury of figuring out how they select their own electoral college votes in the State of Montana, and noted that, until his research came to her, she always assumed, like many people, that this is all out of our hands, that it is done on the national

ROLL CALL

STATE ADMINISTRATION COMMITTEE

51ST LEGISLATIVE SESSION

DATE:

March 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
HUBERT ABRAMS	✓		
JOHN ANDERSON, JR.	✓		
ESTHER BENGTSON	✓		
WILLIAM E. FARRELL	✓		
ETHEL HARDING	✓		
SAM HOFMAN	✓		
PAUL RAPP-SVRCEK	✓		
TOM RASMUSSEN	✓		
ELEANOR VAUGHN	✓		

SENATE STANDING COMMITTEE REPORT

March 9, 198

MR. PRESIDENT:

We, your committee on State Administration, having had under consideration HB 171 (third reading copy -- blue), respectfully report that HB 171 be amended and as so amended be concurred in:

Sponsor: Swift (Harding)

1. Page 3, line 7.

Strike: "WHERE"

Insert: "to an office for which"

Strike: "FOR THE OFFICE"

Insert: "a declaration or petition for nomination or a declaration of intent"

2. Page 5, line 12.

Following: "CAST"

Insert: ",

(i) for the office of precinct committeeman or committeewoman in a primary election;

(ii) for an office for which no candidate has filed a declaration or petition for nomination or a declaration of intent; or

(iii)"

AND AS AMENDED BE CONCURRED IN

Signed: William E. Farrell
William E. Farrell, Chairman

J.C.
12/19/13
2:14
P

SENATE STATE ADMIN.
EXHIBIT NO. 2
DATE 3/9/89
BILL NO. HB171

Amendments to House Bill No. 171
Third Reading Copy

Requested by Representative Bernie Swift
For the Senate Committee on State Administration

Prepared by Lois Menzies
March 3, 1989

1. Page 3, line 7.

Strike: "WHERE"

Insert: "to an office for which"

Strike: "FOR" through "OFFICE"

Insert: "a declaration or petition for nomination or a
declaration of intent"

2. Page 5, line 12.

Following: "CAST"

Insert: ":

(i) for the office of precinct committeeman or
committeewoman in a primary election;

(ii) for an office for which no candidate has filed a
declaration or petition for nomination or a declaration of
intent; or

(iii)"

WITNESS STATEMENTEXHIBIT NO. 3DATE 3/9/89BILL NO. HB 171

To be filled out by a person testifying or a person who would not like to stand up and speak but wants their testimony entered into the record.

NAME:

Betty T. Lund

DATE:

Mar. 9, 1989

Address:

Courthouse Box 5002Hamilton, MT

Phone: _____

Representing whom?

Montana Assoc of Clerks & Recordors

Appearing on which proposal?

HB 171

Do you:

SUPPORT? X

with

AMEND? X

OPPOSE? _____

Comments:

See Exhibit #4

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STATE ADMIN.

EXHIBIT NO. 4

DATE 3/9/89

BILL NO. HB 171 pg 1

PLEASE DELIVER TO:
SECRETARY
House State Administration Committee
State Capitol
Helena, MT
Witness Statement
January 31, 1989
9:00 A.M.
HB 171

WITNESS STATEMENT

NAME: Betty T Lund, Clerk & Recorder

ADDRESS: Ravalli County Courthouse, Box 5002
Hamilton, MT 59840

WHOM DO YOU REPRESENT? Montana Association of Clerks and
Recorders

SUPPORT: HB 171

COMMENTS:

Mr. ~~Madam~~ Chairman and Members of the Committee:

For the the record I am Betty Lund, Clerk & Recorder for
Ravalli County.

H.B. 171 is a result of a resolution passed unanimously by
the Montana Association of Clerk & Recorders at their
convention this past August. The concept of requiring a
serious write-in candidate to file a declaration of intent
is not a concept unique to Montana. ~~I have received copies
of similar laws from the State of Oregon, New Mexico,
Arizona, Illinois, North Carolina and Florida and knew other
states I did not receive data from have it. 23 other states have
similar laws including ID, WY, WA + Dakotas. 4 states do not allow any
write-ins~~
In this time of 1105's and severe budget constraints HB 171
will help to lower election costs, as it is very costly to
count the endless write-ins that elect no one.

I don't believe the general public realizes how many write-
ins there are in a single election and how much it costs to
process them.

In this past general election, Ravalli County had 377
different names written in for various offices. We had to
certify 184 different names with a total vote of 304 to the
#1 Secretary of State as you can see by this copy of the
official canvass- if you will notice most candidates only
received one vote. The primary was worse - 361 different
#2 names with 466 votes were certified to the Secretary of
State. These totals are only a fraction of the number of
write-ins as we only certify ^{to the Sec of State} the state and national
candidates - all local candidate write-ins are kept in the

local government canvass book. The cost of the write-in board on election day for the General was \$120.60. The cost of the crew after the election to type the write-in votes in the Ravalli County official canvass book and certify all the write-ins to the Secretary of State was \$363.63.

Peggy Zeilie, the Election Administrator from Yellowstone County, called me before I left Hamilton and reported that in the General election she had 710 different write-in names of which 663 had two votes or less and in a soil conservation office, she had 6960 which took an employee 62 hours to process and the two people that were elected were already on the board but failed to file in time to get their names printed on the ballot. Her cost to process only the soil conservation write-ins was \$207.70. The total cost of the write-in vote was in excess of \$2000.00.

Missoula County election spokesman, Wendy Cromwell reported that the total cost of her write-ins ^{in the General} was \$720, however this cost is double in a primary election.. Lake County Election Administrator Charlotte Weldon reported that she had 228 write-ins, which took 20 minutes each write-in to complete the process at a cost of \$254.60.

← In conclusion I would be happy to answer any questions that you might have. I have been running elections in Ravalli County for 17 years so do have some experience.

I strongly urge a DO PASS recommendation for HB 171 *as amended*

Thank you for your attention.

Betty T. Lund

Very seldom are write in votes reported in the newspapers - the only persons that know who received write in votes are the counting judge & the canvass board. What a waste of valuable tax dollars.

#3

#4

#5

Missoula
County's
Horror
Story